

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

G.G. MARCK & ASSOCIATES,

Plaintiff,

Case No. 3:05 CV 7391

-vs-

O R D E R

JAMES PENG, et al.,

Defendant.

KATZ, J.

Before the Court is the motion of the Plaintiff to unseal the transcript of the temporary restraining order (“TRO”) proceedings (Doc. No. 50), as to which Defendant has filed an opposition (Doc. No. 53) and Plaintiff a reply (Doc. No. 56). After a review of all attendant circumstances and the law, the Court will grant the motion to unseal the transcript of the TRO.

Briefly stated, the transcript was sealed by the Court at the conclusion of all testimony and introduction of all evidence when it appeared that the matter was settled. The sealing was to protect the parties from the disclosure of “confidential documents” which had been introduced as evidence. Those documents reflected pricing of products and are not a part of the transcript since it is the Court’s understanding that exhibits were the subject of a protective order and, in fact, were retained by the parties. The purpose for which Plaintiff seeks unsealing is to utilize the testimony of witnesses in a case pending in the United States District Court for the Eastern District of Texas. The owner and president of Plaintiff in that action was called and did testify as a witness on behalf of the Defendants during the TRO hearing before this Court.

This Court agrees that there is no viable reason for continuing to maintain the transcript under seal. Any business related materials such as pricing or customer lists which are in the record, other than by exhibit, would be stale at this point in any event. Additionally, even though Plaintiff has not stated that witnesses are unavailable, the testimony of the witness in the record before this Court could be utilized for impeachment of witnesses testifying in the Texas case. This Court has the discretion to unseal that which it previously sealed. The law stated by the parties clearly reflects the same.

For the reasons stated above, the Court grants Plaintiff's motion to unseal the transcript of the TRO proceedings.

IT IS SO ORDERED.

s/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE